

CITY OF CAPE TOWN

SPECIAL RATING AREA BY-LAW

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CITY OF CAPE TOWN

SPECIAL RATING AREA BY-LAW

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CITY OF CAPE TOWN**SPECIAL RATING AREA BY-LAW**

To provide for the establishment of special rating areas; to provide for additional rates; and to provide for matters incidental thereto.

BE IT ENACTED by the City of Cape Town as follows:-

CHAPTER 1**ESTABLISHMENT OF SPECIAL RATING AREAS****1. DEFINITIONS**

In this By-law words or expressions shall bear the meaning assigned to them and, unless the context otherwise indicates –

"additional rate" means an additional rate contemplated in sections 19(1)(d) and 22(1)(b) of the Property Rates Act and in section 12(2) of this By-law;

"applicant" means any owner who makes an application for the determination of a special rating area in accordance with the provisions of Chapter 1, or if a management body is established in terms of section 10 any reference to **"the Applicant"** means the management body;

"business plan" means a motivation report, implementation plan and term budget as contemplated in section 6;

"CFO" means the Chief Financial Officer of the City, or his or her nominee;

"City" means the City of Cape Town established by Provincial Notice No. 479 of 2000 in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Companies Act" means the Companies Act 71 of 2008, as amended or replaced;

"Council" means the Council of the City;

"limited special rating area" means a limited special rating area approved by the Council in terms of section 9;

"majority" means the majority of property owners as contemplated in section 22 of the Property Rates Act;

"management body" means the management body of a special rating area to be established in accordance with the provisions of section 11;

"motivation report" means a motivation report as contemplated in section 6;

"owner" has the meaning assigned to it in section 1 of the Property Rates Act;

"Policy" means the Policy for the determination of special rating areas, or any other policy adopted by the Council in relation to special rating areas, as in force from time to time;

"Property Rates Act" means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

"rateable property" has the meaning assigned to it in section 1 of the Property Rates Act;

"special rating area" means a special rating area approved by the Council in accordance with the provisions of section 22 of the Property Rates Act and section 8 of this By-law;

"term budget" means the budget of the management body contemplated in section 6 of this By-law.

2. INTERPRETATION

In the event of any conflict with the Afrikaans or isiXhosa texts the English text prevails.

3. DETERMINATION OF SPECIAL RATING AREAS

The City may by resolution of the Council determine special rating areas in accordance with the provisions of section 22 of the Property Rates Act.

4. APPLICATION

- (1) Any owner located within the area of jurisdiction of the City and who owns property within the proposed special rating area, may lodge an application to the Council for the determination of a special rating area.
- (2) All costs incurred by the applicant in respect of the establishment of a special rating area shall be for his or her own account, provided that after implementation of the business plan the management body may reimburse the applicant for some or all of those costs.

- (3) Any application contemplated in subsection (1) must –
- (a) be in writing and be in the form as the CFO may determine;
 - (b) be submitted not more than nine months after the date on which the public meeting referred to in section 5 is held, or if a second public meeting is held as provided for in section 6(2), nine months after the date of the second public meeting;
 - (c) be accompanied by –
 - (i) the business plan;
 - (ii) the written consent of the majority of the property owners or any other person mandated by the property owner in writing in the proposed special rating area who will be liable for paying the additional rate, in a form determined by the CFO;
 - (iii) payment of such fee as the Council may determine.

5. PUBLIC MEETINGS

- (1) An application for the determination of a special rating area must be preceded by the holding of a public meeting.
- (2) The purpose of the public meeting is to enable the applicant to consult with those owners within the proposed special rating area with regard to the proposed boundaries of the area and the proposed improvement or upgrading of the area.
- (3) Prior to the holding of the public meeting, the applicant must –
- (a) give notice in a manner approved by the CFO in terms of this By-law to all owners of rateable property, who will be liable for payment of the additional rate, of the applicant's intention to apply for the determination of a special rating area;
 - (b) in the notice referred to in subsection (3)(a), give notice of a public meeting, which notice must –
 - (i) state the purpose of such meeting; and
 - (ii) contain details of the place, date and time when such meeting is to be held.
- (4) The public meeting must be held not less than seven days and not more than 30 days

after the date of the notice.

- (5) The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed special rating area unless the CFO approves another venue in writing before the public meeting is held.
- (6) The public meeting must be chaired by a suitably qualified and experienced person appointed by the CFO.
- (7) Interested persons must, at the public meeting, be –
 - (a) furnished with all relevant information relating to the proposed special rating area, including the information to be set out in the business plan; and
 - (b) given an opportunity to ask questions, express their views and make representations.

6. BUSINESS PLAN

- (1) Any application for the establishment of a special rating area must include a motivation report, an implementation plan and a term budget covering a period commencing on 1 July of a year and ending on 30 June of the fifth year, or covering such lesser period as may be determined by the CFO.
- (2) If the motivation report, the implementation plan or the term budget is materially amended, as determined by the CFO, after the public meeting referred to in section 5, the applicant must call a second public meeting for approval of the special rating area as amended.
- (3) The provisions of section 5 apply with the necessary changes to the second public meeting.

7. ADVERTISING OF APPLICATION AND OBJECTIONS

- (1) The applicant must within 14 days after the application is lodged in accordance with section 4, or within such further period which the CFO may approve –
 - (a) cause a notice of the application to be published in a manner approved by the CFO; and
 - (b) either before or up to seven days after the date of publication of the notice, give

written notice of the application to all owners within the proposed special rating area, who will be liable for payment of the additional rate, such notice to be given by pre-paid registered post, hand delivery or in any other manner approved of in writing by the CFO.

- (2) Every notice contemplated in terms of subsection (1) must state that written objections to the determination of a special rating area or the provisions of the business plan may be lodged with the Council by a date specified in the notice, which shall not be less than 30 days after the date of publication in terms of subsection (1)(a), and must state where the documentation specified in subsection (5) will be available for inspection.
- (3) Any owner of rateable property who will be liable for paying the additional rate may submit written objections to the determination of the special rating area or business plan, which objections must be received by the Council not later than the date stipulated in the notice referred to in subsection (1).
- (4) An applicant and any objector to the application who owns property within the proposed special rating area may make oral representations which will be recorded in writing for submission to Council.
- (5) The application, including the business plan and all objections must be available for inspection at the offices of the City and at a venue determined by the CFO within the proposed special rating area, for the period referred to in subsection (2).

8. DECISION

- (1) After the provisions of sections 4 to 7 have been complied with, the Council must, at a meeting of the Council after the last date for the submission of objections in accordance with section 7(2), consider the application and –
 - (a) determine a special rating area which must be implemented in accordance with the business plan;
 - (b) determine a special rating area with such amendments or conditions as the Council considers to be in the public interest;
 - (c) determine a special rating area in respect of a limited area in terms of section 9;
 - (d) refuse the application, in which event the Council must, within 30 days, furnish the applicant with written reasons for not approving the determination of a special rating area; or

- (e) refer the application back to the applicant for amendment in such manner as the Council may direct.
- (2) If an application is refused by the Council in accordance with the provisions of subsection (1)(d) or referred back to the applicant in accordance with the provisions of subsection (1)(e), the applicant may, within six months of the Council's decision, re-apply to the Council for the determination of the special rating area, provided that such re-application has been appropriately amended in the light of the reasons for refusal or referral, as the case may be.
- (3) If the business plan is amended in any material respect at any time before the determination, the Council may require that the application be re-advertised in accordance with the provisions of section 7, with the necessary changes.

9. DETERMINATION OF A LIMITED SPECIAL RATING AREA

If an application in terms of section 4 is not accompanied by the consent of the majority of the property owners or any other person mandated by the property owner in writing in the proposed special rating area required by section 4(3)(c), but the applicant can demonstrate to the satisfaction of the Council, that –

- (a) there are such confirmations from owners of rateable properties in a limited geographical area within the proposed special rating area that would meet the requirements of section 4(3)(c) if they were to be applied to that area; and
- (b) the level of services to be provided will not be reduced and the budget will be reduced accordingly as a result of the provision of those services in the limited area alone, as compared to the provision of those services in the whole of the proposed special rating area,

then the Council may, subject to the other requirements of this By-law, determine a limited special rating area.

CHAPTER 2

SPECIAL RATING AREAS – STRUCTURES AND FINANCES

10. COMMENCEMENT WITH THE BUSINESS PLAN

Once the Council has approved the establishment of the special rating area, the business plan may only be implemented after the management body has been established in accordance with section 11.

11. ESTABLISHMENT, COMPOSITION, POWERS AND DUTIES OF MANAGEMENT BODY

- (1) The applicant must cause to be established a management body for the purposes of implementing the provisions of the business plan.
- (2) The management body must be a company incorporated in accordance with the provisions of the Companies Act.
- (3) The City shall monitor compliance by the management body with the applicable provisions of this By-law, any guidelines or policies adopted by the City and any agreements entered into with the management body and the City.
- (4) A Subcouncil must nominate a councillor and one other councillor as an alternate representative to attend and participate, but not vote, at the meetings of the management body.
- (5) Employees of the City may only serve as representatives of the City on the management body if nominated to do so by the CFO in terms of section 13(b)(ii) of this By-law.
- (6) Within two months after receipt of the first payment of the additional rate, the management body must begin carrying out the provisions of the business plan.
- (7) Within two months of the end of each financial year, the management body must provide the CFO with –
 - (a) its audited financial statements for the immediately preceding year; and
 - (b) an annual report on its progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the special rating area.
- (8) Within two months after the Annual General Meeting, the management body must provide the relevant Subcouncil with –
 - (a) its audited financial statements for the immediately preceding year; and
 - (b) an annual report on its progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the special rating area.

12. FINANCES

- (1) The financial year of the management body must coincide with the financial year of the Council.
- (2) Where a special rating area has been determined, the Council must levy in accordance with the provisions of the Property Rates Act, a property rate in addition to the rates that it already charges on the owners of rateable property in the special rating area for the purposes of realising the business plan, provided that the Council may in terms of the Property Rates Act, Rates Policy, Credit Control and Debt Collection By-law and the Credit Control and Debt Collection Policy, exempt the indigent, senior citizens, disabled persons or any other category of residents.
- (3) When determining the additional rate referred to in subsection (2), the Council may give consideration to imposing differential additional rates on one or more of the categories set out in section 8 of the Property Rates Act.
- (4) The additional rate due in terms of this By-law is a debt due to the Council and is payable and must be collected in the same manner as other property rates imposed by the Council.
- (5) The Council may, for the purpose of carrying out the provisions of the business plan of the special rating area and subject to section 67 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), make payment to the management body of a special rating area.
- (6) The payment contemplated in subsection (5) is conditional upon the conclusion of a finance agreement to be entered into between the Council and the relevant management body, and such agreement must regulate, among other things –
 - (a) the mechanisms and manner of payment; and
 - (b) terms on which payment to the relevant management body is to be made.
- (7) Subject to the provisions of its memorandum of incorporation, the management body is entitled to raise its own funds through commercial activities, donations or any other lawful means.
- (8) The Council may, for the purposes of this By-law, determine and impose on the management body an administrative charge.

13. THE ROLE OF THE CFO

In addition to the other responsibilities and obligations of the CFO as set out elsewhere in this By-law, the CFO must -

- (a) establish separate accounting and other record-keeping systems regarding the revenue generated by the additional rate and the improvement and upgrading of the special rating area;
- (b) monitor compliance with the applicable legislation, including this By-law and the Policy, by –
 - (i) receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the business plan;
 - (ii) if he or she elects to do so, nominating representatives to attend and participate but not vote at meetings of the management body as provided for in section 11(5).

CHAPTER 3

AMENDMENT TO THE BUSINESS PLAN AND EXTENSION OF THE SRA TERM

14. AMENDMENT TO THE BUSINESS PLAN

- (1) The business plan, including the geographical boundaries of the special rating area, may be amended by the Council on written application by the management body at any time after the formation of the special rating area.
- (2) The Council may approve an application for an amendment referred to in subsection (1) where the Council considers it not likely to materially affect the rights or interests of any owner, provided that the Council may require the management body to cause a notice of the application for such amendment to be published as approved by the CFO.
- (3) The Council may only approve an amendment in terms of subsection (1), with the changes required by the context, in accordance with the provisions of Chapter 1, which the Council considers is likely to –
 - (a) materially affect the rights or interests of any person;
 - (b) affect the approved budget for the special rating area; or
 - (c) change the boundaries of the special rating area.

- (4) The Council may, for good reason, on written application by the management body, exempt the management body from complying with the provisions, or condone any non-compliance with any provisions, of Chapter 1.

15. EXTENSION OF THE SRA TERM

A management body must, if it elects to extend the term of the SRA for a further period, on or before 1 September in the year before which the business plan is due to terminate, submit an application to the City for approval of extension of the term of the SRA, provided that –

- (a) the extension of the SRA term may only be approved by the Council in accordance with the provisions of Chapter 1, with the changes required by the context, and the Council may, for good reason, on written application by the management body, exempt the management body from complying, or condone any non-compliance, with any such provisions;
- (b) the provisions of section 14 shall apply to any amendment of the business plan which has been extended in terms of this section.

CHAPTER 4

DISSOLUTION OF A SPECIAL RATING AREA

16. DISSOLUTION

- (1) The Council may dissolve a special rating area –
- (a) upon written application signed by the majority of owners within the boundaries of the special rating area who are liable for paying the additional rate; or
- (b) after prior consultation by the CFO with the management body or the community, for any good cause, whereupon he or she may cause the management body to be wound up.
- (2) Upon the winding up of a management body, the entire net value of the management body, including its net assets remaining after the satisfaction of all its liabilities, shall be disposed of in terms of the relevant provisions of the Companies Act and the memorandum of incorporation of the management body.

CHAPTER 5**MISCELLANEOUS PROVISIONS****17. TRANSITIONAL PROVISIONS**

(1) Any Special Rating Area or City Improvement District determined or established, or deemed to have been determined or established in terms of the By-law referred to in section 18 shall be deemed to have been determined or established in terms of this By-law.

(2) Any –

- (a) application initiated by an applicant, including a business plan prepared for such an application;
- (b) advertisement or public meeting in respect of such application;
- (c) application submitted to Council;
- (d) approval by the Council of any application,

made, done or given prior to the date of this By-law, shall be governed by this By-law, provided that any business plan in force on the commencement date of this By-law shall, notwithstanding the provisions of section 6, terminate on the termination date of the relevant business plan or 30 June 2012, whichever is the earlier.

18. REPEAL OF BY-LAWS

The City of Cape Town Special Rating Area By-law, published in Provincial Gazette No. 6651 of 21 August 2009, is hereby repealed.

19. SHORT TITLE AND COMMENCEMENT

- (1) This By-law is called the City of Cape Town: Special Rating Area By-law, 2012.
- (2) No new special rating area determined in terms of this By-law may implement its implementation plan prior to 1 July 2012.

STAD KAAPSTAD

VERORDENING OP SPESIALE- AANSLAGGEBIEDE

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STAD KAAPSTAD**VERORDENING OP SPESIALE-AANSLAGGEBIEDE**

Om voorsiening te maak vir die instelling van spesiale-aanslaggebiede; om voorsiening te maak vir bykomende belasting; en om voorsiening te maak vir aangeleenthede wat daarmee gepaard gaan.

Die Stad Kaapstad **VERORDEN** hiermee **SOOS VOLG**:

HOOFSTUK 1**INSTELLING VAN SPESIALE-AANSLAGGEBIEDE****1. WOORDOMSKRYWING**

In hierdie verordening het woorde of uitdrukkings die betekenis wat aan hulle toegeken word en, tensy dit uit die samehang anders blyk, beteken:

"aansoeker" enige eienaar wat aansoek doen om die bepaling van 'n spesiale-aanslaggebied ooreenkomstig die bepalings van hoofstuk 1, of indien 'n bestuursliggaam ingevolge artikel 10 ingestel is, beteken 'n verwysing na **"die aansoeker"** die bestuursliggaam;

"belasbare eiendom" dieselfde as in artikel 1 van die Wet op Eiendomsbelasting;

"beleid" die beleid vir die bepaling van spesiale-aanslaggebiede, of enige ander beleid wat die raad met betrekking tot spesiale-aanslaggebiede aanvaar, soos van tyd tot tyd van krag;

"beperkte spesiale-aanslaggebied" 'n beperkte spesiale-aanslaggebied ingevolge artikel 9 deur die raad goedgekeur;

"bestuursliggaam" die bestuursliggaam van 'n spesiale-aanslaggebied wat ooreenkomstig die bepalings van artikel 11 ingestel moet word;

"bykomende belasting" 'n bykomende belasting beoog in artikel 19(1)(d) en 22(1)(b) van die Wet op Eiendomsbelasting en in artikel 12(2) van hierdie verordening;

"eienaar" dieselfde as in artikel 1 van die Wet op Eiendomsbelasting;

"HFB" die hoof- finansiële beampte van die Stad, of sy/haar genomineerde;

"Maatskappywet" die Maatskappywet, Wet 71 van 2008, soos gewysig of vervang;

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"meerderheid" die meerderheid van eiendomsbesitters soos beoog in artikel 22 van die Wet op Eiendomsbelasting;

"motiveringsverslag" 'n motiveringsverslag soos beoog in artikel 6;

"raad" die raad van die Stad;

"sakeplan" 'n motiveringsverslag, inwerkingstellingsplan en termynbegroting soos beoog in artikel 6;

"spesiale-aanslaggebied" 'n spesiale-aanslaggebied soos ooreenkomstig die bepalings van artikel 22 van die Wet op Eiendomsbelasting en artikel 8 van hierdie verordening deur die raad goedgekeur;

"Stad" die Stad Kaapstad wat ingestel is ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), volgens Provinsiale Kennisgewing nr. 479 van 2000;

"termynbegroting" die begroting van die bestuursliggaam beoog in artikel 6 van hierdie verordening;

"Wet op Eiendomsbelasting" die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting, 2004 (Wet 6 van 2004).

2. UITLEG

In geval van enige strydigheid met die Afrikaanse of Xhosa-teks geld die Engelse teks.

3. BEPALING VAN SPESIALE-AANSLAGGEBIEDE

Die Stad kan na aanleiding van 'n raadsbesluit spesiale-aanslaggebiede ooreenkomstig die bepalings van artikel 22 van die Wet op Eiendomsbelasting bepaal.

4. AANSOEK

- (1) Enige eienaar in die regsgebied van die Stad wat eiendom in die voorgestelde spesiale-aanslaggebied besit, kan by die raad 'n aansoek indien vir die bepaling van 'n spesiale-aanslaggebied.
- (2) Alle koste wat die aansoeker met betrekking tot die bepaling van 'n spesiale-aanslaggebied aangaan, moet deur hom/haar self betaal word, met dien verstande dat

Bladsy 5

die bestuursliggaam ná die inwerkingtreding van die sakeplan 'n deel van of al daardie koste aan die aansoeker kan terugbetaal.

- (3) 'n Aansoek wat in subartikel (1) hierbo beoog word, moet –
- (a) skriftelik wees en in 'n formaat wat die HFB kan bepaal;
 - (b) ingedien word binne hoogstens nege maande ná die datum waarop die openbare vergadering waarna in artikel 5 verwys word, gehou word, of indien 'n tweede openbare vergadering ingevolge artikel 6(2) gehou word, binne nege maande ná die datum van die tweede vergadering;
 - (c) vergesel word van –
 - (i) die sakeplan;
 - (ii) die skriftelike toestemming van die meerderheid van die eiendomsbesitters of 'n ander persoon met 'n skriftelike mandaat van die eiendomsbesitter in die voorgestelde spesiale aanslaggebied wat die bykomende belasting sal moet betaal, en wel in 'n formaat wat die HFB kan bepaal;
 - (iii) betaling van sodanige geld as wat die raad kan bepaal.

5. OPENBARE VERGADERINGS

- (1) 'n Aansoek om die bepaling van 'n spesiale-aanslaggebied moet deur 'n openbare vergadering voorafgegaan word.
- (2) Die doel van die openbare vergadering is om die aansoeker in staat te stel om die eienaars in die voorgestelde spesiale-aanslaggebied te raadpleeg met betrekking tot die voorgestelde grense van die gebied en die voorgestelde verbetering of opgradering van die gebied.
- (3) Voor die openbare vergadering moet die aansoeker –
- (a) aan alle eienaars van belasbare eiendom wat die bykomende belasting sal moet betaal, kennis gee van die aansoeker se voorneme om aansoek te doen om die bepaling van 'n spesiale-aanslaggebied, welke kennisgewing op sodanige wyse moet geskied as wat die HFB ingevolge hierdie verordening kan bepaal;

Bladsy 6

- (b) in die kennisgewing waarna in subartikel 3(a) verwys word, kennis gee van 'n openbare vergadering, en die kennisgewing moet –
 - (i) die doel van sodanige vergadering vermeld; en
 - (ii) besonderhede van die plek, datum en tyd van die vergadering bevat.
- (4) Die openbare vergadering moet nie minder nie as sewe dae en nie meer nie as 30 dae ná die datum van die kennisgewing plaasvind.
- (5) Die openbare vergadering moet op sodanige plek, datum en tyd gehou word as wat in die kennisgewing vermeld word, met dien verstande dat dit binne die grense van die voorgestelde spesiale-aanslaggebied gehou moet word, tensy die HFB skriftelike toestemming vir 'n ander vergaderplek verleen voordat die openbare vergadering gehou word.
- (6) 'n Toepaslik gekwalifiseerde en ervare persoon wat deur die HFB aangestel word, moet as voorsitter van die openbare vergadering optree.
- (7) By die openbare vergadering moet belangstellende persone –
 - (a) alle tersaaklike inligting met betrekking tot die voorgestelde spesiale-aanslaggebied ontvang, wat die inligting insluit wat in die sakeplan uiteengesit moet word; en
 - (b) geleentheid kry om vrae te vra, hulle menings te lug en verhoë te rig.

6. SAKEPLAN

- (1) 'n Aansoek om die instelling van 'n spesiale-aanslaggebied moet 'n motiveringsverslag, 'n inwerkingstellingsplan en 'n termynbegroting insluit vir 'n tydperk wat op 1 Julie van 'n bepaalde jaar begin en op 30 Junie van die vyfde jaar daarna, of sodanige korter tydperk as wat die HFB kan bepaal, ten einde loop.
- (2) Indien die motiveringsverslag, die inwerkingstellingsplan of die termynbegroting na afloop van die openbare vergadering waarna in artikel 5 verwys word wesenlik gewysig word, soos deur die HFB bepaal, moet die aansoeker 'n tweede openbare vergadering belê vir die goedkeuring van die spesiale-aanslaggebied soos gewysig.
- (3) Die bepalinge van artikel 5, met die nodige veranderings, is van toepassing op die tweede openbare vergadering.

Bladsy 7

7. ADVERTERING VAN AANSOEK EN BESWARE

- (1) Die aansoeker moet binne 14 dae nadat die aansoek ooreenkomstig artikel 4 ingedien is, of binne sodanige langer tydperk wat die HFB goedkeur –
 - (a) 'n kennisgewing van die aansoek laat gepubliseer op 'n manier wat deur die HFB goedgekeur is; en
 - (b) binne of tot en met sewe dae na die datum van publikasie van die kennisgewing skriftelike kennis van die aansoek gee aan alle eienaars in die voorgestelde spesiale-aanslaggebied wat die bykomende belasting sal moet betaal, welke kennisgewing per voorafbetaalde geregistreerde pos versend, met die hand afgelewer of op enige ander manier gestuur moet word wat die HFB skriftelik goedkeur.
- (2) Elke kennisgewing wat in subartikel (1) beoog word, moet vermeld dat skriftelike besware teen die bepaling van 'n spesiale-aanslaggebied of die bepalings van die sakeplan teen 'n datum soos in die kennisgewing bepaal, wat nie minder nie as 30 dae ná die publikasiedatum ingevolge subartikel (1)(a) moet wees, by die raad ingedien kan word, en moet vermeld waar die dokumentasie ingevolge subartikel (5) ter insae sal lê.
- (3) 'n Eienaar van belasbare eiendom wat die bykomende belasting sal moet betaal, kan skriftelike besware teen die bepaling van die spesiale-aanslaggebied of sakeplan indien, welke besware die raad moet bereik teen nie later nie as die datum wat bepaal word in die kennisgewing waarna subartikel (1) verwys word.
- (4) 'n Aansoeker en enige beswaarmaker teen die aansoek wat eiendom in die voorgestelde spesiale-aanslaggebied besit, kan mondelinge verhoë rig, en hierdie verhoë sal skriftelik aangeteken word vir voorlegging aan die raad.
- (5) Die aansoek, met die sakeplan en alle besware, moet vir die tydperk waarna in subartikel (2) verwys word, ter insae lê by die kantore van die Stad en by 'n plek in die voorgestelde spesiale-aanslaggebied soos deur die HFB bepaal.

8. BESLISSING

- (1) Nadat daar aan die bepalings van artikel 4 tot 7 voldoen is, moet die raad by 'n raadsvergadering na die sluitingsdatum vir die indiening van besware ooreenkomstig artikel 7(2) die aansoek oorweeg, en –

Bladsy 8

- (a) 'n spesiale-aanslaggebied bepaal wat ooreenkomstig die sakeplan in werking gestel moet word;
 - (b) 'n spesiale-aanslaggebied bepaal met sodanige wysigings of voorwaardes as wat na die raad se mening in die openbare belang is;
 - (c) 'n spesiale-aanslaggebied bepaal met betrekking tot 'n beperkte gebied ingevolge artikel 9;
 - (d) die aansoek weier, in welke geval die raad die aansoeker binne 30 dae van skriftelike redes moet voorsien waarom die bepaling van 'n spesiale-aanslaggebied nie goedgekeur is nie; of
 - (e) die aansoek na die aansoeker terugverwys vir sodanige wysigings as wat die raad kan voorskryf.
- (2) Indien die raad 'n aansoek ooreenkomstig die bepaling van subartikel 1(d) weier of dit ooreenkomstig die bepaling van subartikel 1(e) na die aansoeker terugverwys, kan die aansoeker binne ses maande na die raad se beslissing weer by die raad aansoek doen om die bepaling van die spesiale-aanslaggebied, met dien verstande dat sodanige heraansoek op gepaste wyse gewysig is aan die hand van die redes vir die weiering of die terugverwysing, na gelang van die geval.
- (3) Indien die sakeplan in enige stadium voor die bepaling in enige wesenlike opsig gewysig word, kan die raad vereis dat die aansoek met die nodige veranderings weer ooreenkomstig die bepaling van artikel 7 geadverteer word.

9. BEPALING VAN 'N BEPERKTE SPESIALE-AANSLAGGEBIED

Indien 'n aansoek ingevolge artikel 4 nie vergesel gaan van die skriftelike toestemming van die meerderheid van die eiendomsbesitters of 'n ander persoon met 'n skriftelike mandaat van die eiendomsbesitter in die voorgestelde spesiale-aanslaggebied soos deur artikel 4(3)(c) vereis word nie, maar die aansoeker tot die bevrediging van die raad kan toon dat –

- (a) daar sodanige bekragtigings van eienaars van belasbare eiendomme in 'n beperkte geografiese gebied in die voorgestelde spesiale-aanslaggebied is wat aan die vereistes van artikel 4(3)(c) voldoen indien dit op daardie gebied toegepas sou word; en
- (b) die vlak van dienste wat gelewer gaan word nie sal daal nie en die begroting

Bladsy 9

dienooreenkomstig verminder sal word as gevolg van die lewering van daardie dienste net in die beperkte gebied, vergeleke met die lewering van daardie dienste in die hele voorgestelde spesiale-aanslaggebied,

kan die raad, onderworpe aan die ander vereistes van hierdie verordening, 'n beperkte spesiale-aanslaggebied bepaal.

HOOFSTUK 2

SPEZIALE-AANSLAGGEBIEDE – STRUKTURE EN FINANSIES

10. INWERKINGTREDING VAN DIE SAKEPLAN

Nadat die raad die instelling van die spesiale-aanslaggebied goedgekeur het, kan die sakeplan slegs in werking gestel word nadat die bestuursliggaam ooreenkomstig artikel 11 ingestel is.

11. INSTELLING, SAMESTELLING, MAGTE EN BEVOEGDHEDE VAN DIE BESTUURSLIGGAAM

- (1) Die aansoeker moet 'n bestuursliggaam laat instel met die doel om die bepalings van die sakeplan in werking te stel.
- (2) Die bestuursliggaam moet 'n maatskappy wees wat ooreenkomstig die bepalings van die Maatskappywet geïnkorporeer is.
- (3) Die Stad moet die bestuursliggaam se voldoening aan die toepaslike bepalings van hierdie verordening, enige riglyne of beleid van die Stad en enige ooreenkomste tussen die bestuursliggaam en die Stad moniteer.
- (4) 'n Subraad moet 'n raadslid en een ander raadslid as 'n alternatiewe verteenwoordiger benoem om die vergaderings van die bestuursliggaam by te woon en daaraan deel te neem, maar sonder stemreg.
- (5) Werknemers van die Stad mag slegs as verteenwoordigers van die Stad in die bestuursliggaam dien as hulle deur die HFB ingevolge artikel 13(b)(ii) van hierdie verordening benoem word.
- (6) Binne twee maande na ontvangs van die eerste betaling van die bykomende belasting moet die bestuursliggaam die bepalings van die sakeplan begin uitvoer.

Bladsy 10

- (7) Binne twee maande na die einde van elke boekjaar moet die bestuursliggaam die HFB voorsien van –
- (a) sy geouditeerde finansiële state vir die onmiddellik voorafgaande jaar; en
 - (b) 'n jaarverslag oor sy vordering met die uitvoering van die bepalings van die sakeplan in die voorafgaande jaar ten einde die spesiale-aanslaggebied te verbeter en op te gradeer.
- (8) Binne twee maande na die algemene jaarvergadering moet die bestuursliggaam die tersaaklike subraad voorsien van –
- (a) sy geouditeerde finansiële state vir die onmiddellik voorafgaande jaar; en
 - (b) 'n jaarverslag oor sy vordering met die uitvoering van die bepalings van die sakeplan in die voorafgaande jaar ten einde die spesiale-aanslaggebied te verbeter en op te gradeer.

12. FINANSIES

- (1) Die boekjaar van die bestuursliggaam moet saamval met die boekjaar van die raad.
- (2) Waar 'n spesiale-aanslaggebied bepaal is, moet die raad ooreenkomstig die bepalings van die Wet op Eiendomsbelasting 'n eiendomsbelasting bykomend tot die belasting wat eienaars van belasbare eiendom in die spesiale-aanslaggebied reeds betaal, oplê ten einde die oogmerke van die sakeplan te verwesenlik, met dien verstande dat die raad ingevolge die Wet op Eiendomsbelasting, die Beleid oor Eiendomsbelasting, die Verordening op Kredietbeheer en Skuldinvordering, en die Beleid oor Kredietbeheer en Skuldinvordering deernisgevalle, senior burgers, persone met gestremdhede of enige ander kategorieë inwoners kan vrystel.
- (3) Wanneer die raad die bykomende belasting waarna in subartikel (2) verwys word, bepaal, kan die raad dit oorweeg om differensiële bykomende belastings op te lê aan een of meer van die kategorieë wat in artikel 8 van die Wet op Eiendomsbelasting uiteengesit word.
- (4) Die bykomende belasting verskuldig ingevolge hierdie verordening is 'n skuld wat aan die raad verskuldig is, en is betaalbaar en moet op dieselfde manier ingevorder word as ander eiendomsbelasting wat die raad hef.
- (5) Ten einde die bepalings van die sakeplan vir die spesiale-aanslaggebied uit te voer, en onderworpe aan artikel 67 van die Wet op Plaaslike Regering: Munisipale Finansiële

Bladsy 11

Bestuur, 2003 (Wet 56 van 2003), kan die raad betalings aan die bestuursliggaam van 'n spesiale-aanslaggebied maak.

- (6) Dit is 'n voorwaarde van die betaling wat in subartikel (5) beoog word dat daar 'n finansiële ooreenkoms tussen die raad en die tersaaklike bestuursliggaam gesluit word, welke ooreenkoms onder andere die volgende moet reguleer:
- (a) die betaalmeganismes en -metode; en
 - (b) die bepalings waarvolgens betaling aan die tersaaklike bestuursliggaam gemaak sal word.
- (7) Onderworpe aan die bepalings van sy akte van inkorporasie kan die bestuursliggaam self deur kommersiële bedrywighede, skenkings en ander wettige maniere geld insamel.
- (8) Vir die doeleindes van hierdie verordening kan die raad 'n administratiewe heffing bepaal en aan die bestuursliggaam oplê.

13. DIE ROL VAN DIE HFB

Benewens die ander verantwoordelikhede en verpligtinge van die HFB soos elders in hierdie verordening uiteengesit, moet die HFB –

- (a) afsonderlike rekeningkundige en ander optekeningstelsels instel met betrekking tot die inkomste uit die bykomende belasting en die verbetering en opgradering van die spesiale-aanslaggebied;
- (b) nakoming van die toepaslike wetgewing, wat hierdie verordening en die beleid insluit, moniteer deur –
 - (i) die geouditeerde finansiële state en verslae met betrekking tot die uitvoering van pligte soos in die sakeplan uiteengesit in ontvangs te neem en te oorweeg; en
 - (ii) indien hy/sy so besluit, verteenwoordigers te benoem om die vergaderings van die bestuursliggaam by te woon en daaraan deel te neem, maar sonder stemreg, soos in artikel 11(5) bepaal.

HOOFSTUK 3

WYSIGING VAN DIE SAKEPLAN EN VERLENGING VAN DIE SAG-TERMYN

14. WYSIGING VAN DIE SAKEPLAN

- (1) Die raad kan, op skriftelike aansoek van die bestuursliggaam in enige stadium na die bepaling van die spesiale-aanslaggebied, die sakeplan, en die geografiese grense van die spesiale-aanslaggebied, wysig.
- (2) Die raad kan 'n aansoek om wysiging waarna in subartikel (1) verwys word, goedkeur indien dit na die raad se oordeel geen wesentliche invloed op die regte of belange van enige eienaar behoort te hê nie, met dien verstande dat die raad kan vereis dat die bestuursliggaam 'n kennisgewing van die aansoek om sodanige wysiging, soos deur die HFB goedgekeur, moet laat publiseer.
- (3) Die Raad kan 'n wysiging ingevolge subartikel (1), met die veranderinge soos deur die samehang vereis ooreenkomstig die bepalings van Hoofstuk 1, slegs goedkeur as dit na die raad se mening waarskynlik –
 - (a) die regte of belange van enige persoon wesenlik sal raak;
 - (b) die goedgekeurde begroting vir die spesiale-aanslaggebied sal raak; of
 - (c) die grense van die spesiale-aanslaggebied sal verander.
- (4) Die raad kan om 'n gegronde rede, op skriftelike aansoek van die bestuursliggaam, die bestuursliggaam van die nakoming van die bepalings van hoofstuk 1 vrystel of nienakoming van enige bepalings van hoofstuk 1 kondoneer.

15. VERLENGING VAN DIE SAG-TERMYN

Indien 'n bestuursliggaam kies om die termyn van die SAG met 'n verdere tydperk te verleng, moet sodanige bestuursliggaam voor of op 1 September van die jaar waarin die sakeplan ten einde gaan loop, 'n aansoek om verlenging van die termyn van die SAG by die Stad indien, met dien verstande dat –

- (a) die raad die verlenging van die SAG-termyn slegs ooreenkomstig die bepalings van hoofstuk 1 kan goedkeur, met die veranderinge soos deur die samehang vereis, en die raad kan om 'n gegronde rede, en op skriftelike aansoek van die bestuursliggaam, die bestuursliggaam van die nakoming van enige sodanige

Bladsy 13

bepalings vrystel, of enige nienakoming daarvan kondoneer;

- (b) die bepalings van artikel 14 van toepassing is op enige wysiging van die sakeplan wat ingevolge hierdie artikel verleng is.

HOOFSTUK 4

ONTBINDING VAN 'N SPESIALE-AANSLAGGEBIED

16. ONTBINDING

- (1) Die raad kan 'n spesiale-aanslaggebied ontbind –
- (a) op skriftelike aansoek onderteken deur die meerderheid van eienaars binne die grense van die spesiale-aanslaggebied wat die bykomende belasting sal moet betaal; of
- (b) nadat die HFB die bestuursliggaam of die gemeenskap vooraf geraadpleeg het, om enige gegronde rede, in welke geval hy/sy die bestuursliggaam kan laat ontbind.
- (2) By die ontbinding van 'n bestuursliggaam word die hele netto waarde van die bestuursliggaam, wat sy netto bates insluit wat na die delging van al sy skuld oorbly, van die hand gesit ooreenkomstig die toepaslike bepalings van die Maatskappywet en die akte van inkorporasie van die bestuursliggaam.

HOOFSTUK 5

DIVERSE BEPALINGS

17. OORGANGSBEPALINGS

- (1) Enige spesiale-aanslaggebied of stadsverbeteringsdistrik wat ingevolge die verordening waarna in artikel 18 verwys word, bepaal of ingestel is, of as bepaal of ingestel beskou word, word ingevolge hierdie verordening as bepaal of ingestel beskou.
- (2) Enige –
- (a) aansoek wat deur 'n aansoeker aangevoer word, wat 'n sakeplan vir sodanige aansoek insluit;
- (b) advertensie of openbare vergadering met betrekking tot sodanige aansoek;

Bladsy 14

(c) aansoek wat by die raad ingedien word;

(d) raadsgoedkeuring vir enige aansoek,

wat voor die datum van hierdie verordening gedoen is, verskyn, gehou is of verleen word, word deur hierdie verordening gereël, met dien verstande dat enige sakeplan wat by die inwerkingtredingsdatum van hierdie verordening van krag is, ondanks die bepalings van artikel 6 ten einde loop op die beëindigingsdatum van die tersaaklike sakeplan of 30 Junie 2012, watter datum ook al eerste is.

18. HERROEPING VAN VERORDENINGE

Die Stad Kaapstad: Verordening op Stadsverbeteringsdistrikte, gepubliseer in Provinsiale Koerant nr. 6651 van 21 Augustus 2009, word hiermee herroep.

19. KORT TITEL EN INWERKINGTREDING

- (1) Hierdie verordening staan bekend as die Stad Kaapstad: Verordening op Spesiale-aanslaggebiede, 2012.
- (2) Geen nuwe spesiale-aanslaggebied wat ingevolge hierdie verordening bepaal word, kan sy sakeplan voor 1 Julie 2012 begin uitvoer nie.

ISIXEKO SASEKAPA

UMTHETHO KAMASIPALA WEENTLAWULO

ZOBUHLALI EZIZODWA

IPhepha 2

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IPhepha 3

ISIXEKO SASEKAPA**UMTHETHO KAMASIPALA WEENTLAWULO ZOBUHLALI EZIZODWA**

Ukulungiselela ukumiselwa kwemimandla yeentlawulo zobuhlali zikaMasipala ezizodwa; ukulungiselela iintlawulo zobuhlali ezongeziweyo; kunye nokulungiselela imiba ehamba noko.

MAKUMISELWE NGOKOMTHETHO sisiXeko saseKapa ngolu hlobo:-

IS AHLUKO 1**UKUMISELWA KWEMIMANDLA YEENTLAWULO ZOBUHLALI EZIZODWA****1. IINKCAZELO**

Kulo Mthetho kaMasipala amagama okanye iintetho ziya kuba nentsingiselo ezinikwe yona, ngaphandle kokuba umxholo ubonisa ngolunye uhlobo –

"iintlawulo zobuhlali ezongeziweyo" kuthethwa iintlawulo zobuhlali ezongeziweyo njengoko kuchaziwe kumacandelo 19(1)(d) nelama-22(1)(b) oMthetho weeNtlawulo zobuHlali zeePropati nakwicandelo 12(2) alo Mthetho kaMasipala;

"umfaki-sicelo" kuthethwa nawuphi na umnini owenza isicelo sokumiselwa kommandla weentlawulo zobuhlali ezizodwa ngokungqinela namagatya eSahluko 1, okanye ukuba kumiselwe iqela elilawulayo ngokungqinelana necandelo 10 nakuphi na okubhekiselele **"umfaki-sicelo"** kuthethwa iqela elilawulayo;

"isicwangciso somsebenzi" kuthethwa ingxelo yenkuthazo, isicwangciso sokumisela kunye nohlahlo-lwabiwo-mali lwexesha elimisiweyo njengoko kuchaziwe kwicandelo 6;

"CFO" kuthethwa iGosa eliyiNtloko lezeMali lesiXeko, okanye lowo wonyulwe esikhundleni sakhe;

"isiXeko" kuthethwa isiXeko saseKapa esamiselwa ngokweSaziso sePhondo esinguNomb. 479 ka-2000 ngokwemigaqo yecandelo 12 loMthetho olawula uBume boLawulo lukaMasipala: kubuRhulumente beNgingqi, 1998 (uMthetho onguNomb. 117 ka-1998);

"uMthetho olawula iiNkampani" kuthethwa uMthetho ojongene neeNkampani 71 ka-2008, njengoko ulungisiwe okanye utshintshiwe;

"iBhunga" kuthethwa iBhunga lesiXeko;

IPhepha 4

"iintlawulo zobuhlali ezizodwa kwinxalenye yommandla" kuthethwa iintlawulo zobuhlali ezizodwa kwinxalenye yommandla eziphunyezwe liBhunga ngokwemigaqo yecandelo 9;

"isininzi" kuthethwa isininzi sabanini-propati njengoko kuchaziwe kwicandelo lama-22 loMthetho weeRhafu zeePropati;

"iqela elilawulayo" kuthethwa iqela elilawulayo lommandla weentlawulo zobuhlali ezizodwa eliya kumiselwa ngokungqinelana nemiqathango yecandelo 11;

"ingxelo yempembelelo" kuthethwa ingxelo yenkuthazo njengoko kuchaziwe kwicandelo 6;

"umnini" umini unentsingiselo enikwe kwicandelo 1 loMthetho weeRhafu zeePropati;

"uMgaqo-nkqubo" kuthethwa uMgaqo-nkqubo ojongene nokumiselwa kwemimandla yeentlawulo zobuhlali ezizodwa, okanye nawuphi omnye umgaqo-nkqubo owamkelwa liBhunga ngokunxulumene nemimandla yeentlawulo zobuhlali ezizodwa, othi usebenze amaxesha ngamaxesha;

"uMthetho weeRhafu zeePropati" kuthethwa uMthetho weeRhafu zobuhlali zikaMasipala: kubuRhulumente beNgingqi, 2004 (uMthetho onguNomb. 6 ka-2004);

"ipropati eneentlawulo zobuhlali" unentsingiselo enikezelwe yona ngokwecandelo 1 loMthetho weeRhafu zeePropati;

"ummandla weentlawulo zobuhlali ezizodwa" kuthethwa ummandla weentlawulo zobuhlali ezizodwa owaphunyezwa liBhunga ngokungqinelana nemiqathango yecandelo lama-22 loMthetho weeRhafu zeePropati necandelo 8 lalo Mthetho kaMasipala;

"uhlahlo-lwabiwo-mali lwexesha elimisiweyo" kuthethwa uhlahlo-lwabiwo-mali lweqela elilawulayo njengoko kuchaziwe kwicandelo 6 lalo Mthetho kaMasipala.

2. UTOLIKO

Ukuba kukho impikiswano ngokuphathelene nekopi yesiBhulu okanye yesiXhosa kuya kuthi kulandelwe ikopi yesiNgesi.

3. UKUMISELWA KWEMIMANDLA YEENTLAWULO ZOBUHLALI EZIZODWA

IsiXeko sinakho ukuthi ngokwesigqibo seBhunga simisele imimandla yeentlawulo ezizodwa zobuhlali ngokungqinelana nemiqathango yecandelo lama-22 loMthetho weeRhafu zeePropati.

IPhepha 5

4. ISICELO

- (1) Nawuphi na umnini ohlala kummandla wolawulo lwesiXeko nonepropati eyeyakhe ekummandla weentlawulo zobuhlali ezizodwa ophakanyisiweyo, unakho ukwenza isicelo kwiBhunga sokumiselwa kommandla weentlawulo zobuhlali ezizodwa.
- (2) Zonke iindleko ezenziwe ngumfaki-sicelo ngokuphathelene nokumiselwa kommandla weentlawulo zobuhlali ezizodwa ziya kuhlawulwa nguye, ukuba emva kokumiselwa kwemiswanciso somsebenzi iqela elilawulayo liya kuthi libuyekeze umfaki-sicelo inxalenye okanye zonke ezo ndleko.
- (3) Nasiphi isicelo esichazwe kwicandelwana (1) kufuneka ukuba –
 - (a) senziwe ngokubhaliweyo yaye senziwe ngohlobo oluya kumiselwa liGosa eliyiNtloko kwezeMali;
 - (b) masingeniswe zingadlulanga iinyanga ezilithoba emva komhla ekuya kuchotshelwa ngawo intlanganiso yoluntu echazwe kwicandelo 5, okanye ukuba kuthe kwachotshelwa intlanganiso yesibini yoluntu njengoko kuchaziwe kwicandelo 6(2), kwiinyanga ezilithoba emva komhla wentlanganiso yesibini yoluntu;
 - (c) masiphelekwe –
 - (i) sisicwanciso somsebenzi;
 - (ii) yimvume ebhaliweyo yesininzi sabanini-propati okanye nawuphi na omnye umntu ogunyaziswe ngumnini-propati ngokubhaliweyo kummandla ophakanyiselwe iintlawulo zobuhlali ezizodwa oya kuba noxanduva lokuhlawula iirhafu ezongeziweyo, ngohlobo oluya kumiselwa liGosa eliyiNtloko kwezeMali;
 - (iii) ukuhlawulwa kwalo mirhumo eya kumiselwa liBhunga.

5. IINTLANGANISO ZOLUNTU

- (1) Isicelo sokumiselwa kommandla weentlawulo zobuhlali ezizodwa masiphelekwe ngokuthi kuchotshelwe intlanganiso yoluntu.
- (2) Injongo yentlanganiso yoluntu kukuvumela umfaki-sicelo ukuba abonisane nabo banini abakulo mmandla uphakanyiselwe iintlawulo zobuhlali ezizodwa ngokuphathelene

IPhepha 6

nemida ephakanyisiweyo yalo mmandla kunye nophuculo oluphakanyisiweyo okanye ukuphuculwa kwalo mmandla.

- (3) Ngaphambi kokuchotshelwa kwentlanganiso yoluntu, umfaki-sicelo kufuneka –
- (a) anike isaziso ngohlobo oluphunyezwe liGosa eliyiNtloko kwezeMali ngokwemigaqo yalo Mthetho kaMasipala kubo bonke abanini beepropati ezirhafelwayo, abaya kuba noxanduva lokuhlawula irhafu eyongeziweyo, ngokwenjongo yomfaki-sicelo yokwenza isicelo sokumiselwa kommandla weentlawulo zobuhlali ezizodwa;
- (b) kwisaziso esichazwe kwicandelwana (3)(a), anike isaziso sentlanganiso yoluntu, isaziso eso kufuneka –
- (i) sichaze injongo yalo ntlanganiso; kwaye
- (ii) masiquke iinkcukacha zendawo, umhla nexesha eya kuchotshelwa ngalo lo ntlanganiso.
- (4) Intlanganiso yoluntu mayichotshelwe zingekadluli iintsuku ezisixhenxe kwaye zingadlulanga iintsuku ezingamashumi amathathu emva komhla wokukhutshwa kwesaziso.
- (5) Intlanganiso yoluntu mayichotshelwe kwindawo, umhla nexesha elichazwe kwisaziso, ukuba iya kuchotshelwa kwindawo ekumda wommandla ophakanyiselwe iintlawulo zobuhlali ezizodwa ngaphandle kokuba iGosa eliyiNtloko kwezeMali lithe laphumeza enye indawo ngokubhaliweyo phambi kokuba kuchotshelwe intlanganiso yoluntu.
- (6) Intlanganiso yoluntu kufuneka ibe nosihlalo ongumntu onemfundo efanelekileyo namava afanelekileyo owonyulwe liGosa eliyiNtloko kwezeMali.
- (7) Abantu abanomdla kufuneka, kwintlanganiso yoluntu, –
- (a) banikwe lonke ulwazi olufanelekileyo oluphathelele nommandla ophakanyiselwe iintlawulo zobuhlali ezizodwa, kuqukwa nolwazi oluya kumiselwa kwisicwangciso somsebenzi; kwaye
- (b) banikwe ithuba lokuubuzisa imibuzo, lokuchaza izimvo zabo nokwenza iintetho/iinkcaza.

6. ISICWANGCISO SOMSEBENZI

IPhepha 7

- (1) Nasiphi na isicelo sokumiselwa koomandla weentlawulo zobuhlali ezizodwa masibandakanye ingxelo yempembelelo, isicwangciso sokumiselwa kunye nohlahlo-lwabiwo-mali lwexesha elimisiweyo oluza kuthatha ixesha eliqala ngomhla woku-1 Julayi walo nyaka nophela ngomhla wama-30 Juni kunyaka wesihlanu, okanye oluthatha ixesha elinganeno elinokumiselwa liGosa eliyiNtloko kwezeMali.
- (2) Ukuba ingxelo yempembelelo, isicwangciso sokumiselwa okanye uhlahlo-lwabiwo-mali lwexesha elimisiweyo zithetha zalungiswa ngokumandla, njengoko kumiselweyo liGosa eliyiNtloko kwezeMali, emva kokuchotshelwa kwentlanganiso yoluntu okuchazwe kwicandelo 5, umfaki-sicelo makabize intlanganiso yesibini yoluntu ukuze kuphunyezwe ummandla weentlanganiso zobuhlali ezizodwa olungisiweyo.
- (3) Imiqathango yecandelo 5 isetyenziswa neenguqu ezifanelekileyo kwintlanganiso yesibini yoluntu.

7. UKUBHENGEZWA KWESICELO NEEZICHASO

- (1) Umfaki-sicelo makathi kwisithuba seentsuku ezili-14 emva kokuba kungeniswe isicelo ngokungqinelana nemiqathango yecandelo 4, okanye kwisithuba selinye ixesha elongeziweyo elinokuphunyezwa liGosa eliyiNtloko kwezeMali –
 - (a) abangele ukuba isaziso sesicelo sipapashwe ngohlobo oluya kuphunyezwa liGosa eliyiNtloko kwezeMali; kwaye
 - (b) nokuba kungaphambi okanye kwisithuba seentsuku ezisixhenxe emva komhla wokupapashwa kwesaziso, anike isaziso esibhaliweyo sesicelo sabo bonke abanini abakummandla ophakanyiselwe iintlawulo zobuhlali ezizodwa, oya kuba noxanduva lokuhlawula irhafu eyongeziweyo, eso saziso masikhutshwe ngeposi ebhaliweyo ehlawulelwe kwangaphambili, siziswe buqu okanye ngalo naluphi uhlobo oluphunyezwe ngokubhaliweyo liGosa eliyiNtloko kwezeMali.
- (2) Nasiphi na isaziso esichaziweyo ngokwemigaqo yecandelwana (1) masichaze ukuba izichaso ezibhaliweyo zokumiselwa kommandla weentlawulo zobuhlali ezizodwa okanye imimiselo yesicwangciso somsebenzi singangeniswa kwiBhunga ngomhla ochazwe kwisaziso, ungayi kuba ngaphantsi kweentsuku ezingama-30 emva komhla wokupapashwa kwesaziso ngokwemigaqo yecandelwana (1)(a), kwaye masichaze ukuba uxwebhu oluchazwe kwicandelwana (5) luya kufumaneka nini ukuze luphononongwe.
- (3) Nawuphi na umnini wepropati erhafelwayo oya kuba noxanduva lokuhlawula irhafu eyongeziweyo banakho ukungenisa izichaso ezibhaliweyo ngokumiselwa kommandla weentlawulo zobuhlali ezizodwa okanye isicwangciso somsebenzi, izichaso ezo

IPhepha 8

kuyimfuneko ukuba zifunyanwe liBhunga ungadlulanga umhla omiswe kwisaziso esichazwe kwicandelwana (1).

- (4) Umfaki-sicelo naye nawuphi umchasi kwisicelo onepropati kummandla ophakanyiselwe iintlawulo zobuhlali ezizodwa uvumelekile ukwenza inkcazelo ngomlomo neziya kushicilelwa ngokubhaliweyo ukuze zingeniswe kwiBhunga.
- (5) Isicelo, kuqukwa nesciwangciso somsebenzi nazo zonke izichaso mazifumaneke ukuze ziphengululwe kwii-ofisi zesiXeko nakwindawo eya kumiselwa liGosa eliyiNtloko kwezeMali kummandla ophakanyiselwe iintlawulo zobuhlali ezizodwa, ixesha elichazwe kwicandelwana (2).

8. ISIGQIBO

- (1) Emva kokuba kuthotyelwe imiqathango yamacandelo 4 ukuya kwele-7, kufuneka iBhunga liqwalasele isicelo, kwintlanganiso yeBhunga emva komhla wokugqibela ukuze kungeniswe izichaso ngokungqinelana necandelo 7(2) kwaye –
 - (a) makumiselwe ummandla weentlawulo zobuhlali ezizodwa nekuyimfuneko ukuba zimiselwe ngokungqinelana nesciwangciso somsebenzi;
 - (b) makumiselwe ummandla weentlawulo zobuhlali ezizodwa nezilungiso okanye imiqathango ebonwe liBhunga ukuba ilungele uluntu jikelele;
 - (c) makumiselwe ummandla weentlawulo zobuhlali ezizodwa ngokuphathelene nommandla weenxalenye ezithile ngokungqinelana necandelo 9;
 - (d) makukhatywe isicelo, kulo meko kufuneka iBhunga, kwisithuba seentsuku ezingama-30, libonelele umfaki-sicelo ngezizathu ezibhaliweyo zokungasiphumezi isicelo sokumiselwa kommandla wentlawulo zobuhlali ezizodwa; okanye
 - (e) makubuyiselwe isicelo kumfaki-sicelo ukuze silungiswe ngohlobo oluya kuyalelwa liBhunga.
- (2) Ukuba isicelo sithe sakhatywa liBhunga ngokungqinelana nemiqathango yecandelwana (1)(d) okanye sibuyiselwe kumfaki-sicelo ngokungqinelana nemiqathango yecandelwana (1)(e), umfaki-sicelo unakho ukuthi, kwisithuba seenyanga ezintandathu zesigqibo seBhunga, ukwenza isicelo kwakhona kwiBhunga sokumiselwa kommandla weentlawulo zobuhlali ezizodwa, ukuba eso sicelo senziwe kwakhona silungiswe ngokufanelekileyo kuthathelwa ingqalelo izizathu zokukhatywa okanye zokudluliswa, ngokwemeko yelo xesha.

IPhepha 9

- (3) Ukuba isicwangciso somsebenzi sithe saguqulwa ngalo naluphi uhlobo olubonakalayo ngalo naliphi na ixesha phambi kokumiselwa, iBhunga linakho ukufuna ukuba isicelo sipapashwe kwakhona ngokungqinelana nemiqathango yecandelo 7, neenguqu eziyimfuneko.

9. UKUMISELWA KOMMANDLA WEENTLAWULO ZOBUHLALI EZIZODWA KWIXALENYE YOMMANDLA

Ukuba isicelo ngokwemigaqo yecandelo 4 asiphelekwa sisininzi sabanini-propati okanye ngumntu ogunyaziswe ngumnini propati ngokubhaliweyo kummandla ophakanyiselwe iintlawulo zobuhlali ezizodwa ezifunwa ngokwecandelo 4(3)(c), kodwa umfaki-sicelo unakho ukubonisa ngokwaneliseka kweBhunga, ukuba –

- (a) kukho iziqinisekiso ezifunyenwe kubanini beepropati ezirhafelwayo kwinxalenye yommandla wendawo ezinokuhlangabezana neemfuno zecandelo 4(3)(c) xa zisetyenziswa kulo ndawo; kunye
- (b) umgangatho weenkondo eziza kunikezelwa awuzi kucuthwa yaye uhlahlo-lwabiwo-mali luya kucuthwa ngokufanelekileyo ngenxa yokubonelelwa kwezo nkondo kulo nxalenye yommandla iyodwa, xa kuthelakiswa nobonelelo lwenkondo kummandla uwonke ophakanyiselwe iintlawulo zobuhlali ezizodwa,

ngako oko iBhunga linakho, ngokuxhomekeke kwezinye iimfuno zalo Mthetho kaMasipala, ezimisela inxalenye yommandla weentlawulo zobuhlali ezizodwa.

ISAHLUKO 2

IMIMANDLA YEENTLAWULO ZOBUHLALI EZIZODWA – UBUME BEZIKHUNDLA NEZEMALI

10. UKUSUNGULWA KWESICWANGCISO SOMSEBENZI

Xa iBhunga likuphumezile ukumiselwa kommandla weentlawulo zobuhlali ezizodwa, isicwangciso somsebenzi sinokumiselwa kuphela emva kokuba kumiselwe iqela elilawulayo ngokungqinelana nemigaqo yecandelo 11.

11. UKUMISELWA, UKWAKHIWA, AMAGUNYA NEMISEBENZI YEQELA ELILAWULAYO

IPhepha 10

- (1) Umfaki-sicelo kufuneka acele ukuba kumiselwe iqela elilawulayo ngeenjongo zokumisela imiqathango yesicwangciso somsebenzi.
- (2) Iqela elilawulayo mayibe yinkampani emanyeneyo ngokungqinelana nemiqathango yoMthetho olawula iiNkampani.
- (3) IsiXeko kufuneka sibek'esweni ukuthotyelwa liqela elilawulayo nemiqathango efanelekileyo yalo Mthetho kaMasipala, nazo naziphi izikhokelo okanye imigaqo-nkqubo eyamkelwa sisiXeko nazo naziphi izivumelwano ekungenwa kuzo neqela elilawulayo nesiXeko.
- (4) IBhungana kufuneka lonyule uceba nomnye uceba njengommeli ongomnye ukuze azimase ze athathe inxaxheba, kodwa angavoti, kwiintlanganiso zeqela elilawulayo.
- (5) Abasebenzi besiXeko bavumelekile ukuba basebenze njengabameli besiXeko kwiqela elilawulayo ukuze benze lo msebenzi liGosa eliyiNtloko kwezeMali ngokwemigaqo yecandelo 13(b)(ii) lalo Mthetho kaMasipala.
- (6) Kwisithuba seenyanga ezimbini emva kokufunyanwa kwentlawulo yokuqala yerhafu eyongeziweyo, iqela elilawulayo maliqalise ukwenza imiqathango yesicwangciso somsebenzi.
- (7) Kwisithuba seenyanga ezimbini ekupheleni konyaka-mali ngamnye, iqela elilawulayo malinike iGosa eliyiNtloko kwezeMali oku kulandelayo –
 - (a) iingxelo zalo eziphicothiweyo zezimali zonyaka owaandulelayo; kunye
 - (b) nengxelo yonyaka ephicothiweyo emalunga nenkqubela-phambili ngokuqhuba imiqathango yesicwangciso somsebenzi kunyaka olandelayo ngenjongo yokuphucula nokukhuthaza ummandla weentlawulo zobuhlali ezizodwa.
- (8) Kwisithuba seenyanga ezimbini emva kweNtlanganiso Jikelele yoNyaka, iqela elilawulayo malibonelele iBhungana elifanelekileyo ngoku kulandelayo –
 - (a) iingxelo zazo zonyaka eziphicothiweyo zonyaka owandulelayo; kunye
 - (b) ingxelo yonyaka engenqubela-phambili yawo ekumiseleni imiqathango yesicwangciso somsebenzi kunyaka olandelayo ngenjongo yokuphucula nokukhuthaza ummandla weentlawulo zobuhlali ezizodwa.

IPhepha 11

12. IZIMALI

- (1) Unyaka-mali weqela elilawulayo kufuneka ungqamane nonyaka-mali weBhunga.
- (2) Xa kumiselwe ummandla weentlawulo zobuhlali ezizodwa, iBhunga kufuneka lihlawulise umrhumo ngokungqinelana nemiqathango yoMthetho weeRhafu zeePropati, irhafu yeePropati ngaphezu kwemirhumo esele zihlawuliswa kubanini beePropati ezirhafelwayo kummandla weentlawulo zobuhlali ngeenjongo zokuqonda ngokukuko isicwangciso somsebenzi, ukuba iBhunga linokuthi ngokwemigaqo yoMthetho weeRhafu zeePropati, uMgaqo-nkqubo weeRhafu, uMthetho kaMasipala woLawulo lwaMatyala nokuqokelelwa kwaMatyala kunye noMgaqo-nkqubo woLawulo lwaMatyala nokuQokelelwa kwaMatyala, ngaphandle kwabantu abasweleyo, abantu abadala, abantu abakhubazekileyo okanye nalo naliphi iqela labahlali.
- (3) Xa kumiselwa iqondo lerhafu eyongezwayo echazwe kwicandelwana (2), iBhunga linakho ukuqwalasela ukumisela iirhafu ezongezwayo ezohlukeneyo kwizintlu ezininzi ezohlukeneyo ezichazwe kwicandelo 8 loMthetho weeRhafu zeePropati.
- (4) Iqondo lerhafu eyongezwayo emele ukuhlawulwa ngokungqinelana nalo Mthetho kaMasipala lityala elimele ukuhlawulwa kwiBhunga yaye kufuneka iqokelelwe ngendlela efanayo neyezinye iirhafu zeePropati ezimisela iBhunga.
- (5) IBhunga linakho ukuthi, ngeenjongo zokwenza imiqathango yesicwangciso somsebenzi yommandla weentlawulo zobuhlali ezizodwa nangokuxhomekeke kwimiqathango yecandelo lama-67 loMthetho woLawulo lweZimali zikaMasipala kubuRhulumente beNgingqi, 2003 (uMthetho onguNomb. 56 ka-2003), ukuba kwenziwe intlawulo kwiqela elilawulayo lommandla weentlawulo zobuhlali ezizodwa.
- (6) Intlawulo echazwe kwicandelwana (5) lixhomekeke ekuphethweni kwesivumelwano sezimali ekuza kungenwa kuso phakathi kweBhunga neqela elilawulayo elifanelekileyo, yaye eso sivumelwano masilawule, phakathi kwezinye izinto –
 - (a) izixhobo nendlela ekwenziwa ngayo iintlawulo; kunye
 - (b) nexesha ekuza kwenziwa ngalo iintlawulo kwiqela elilawulayo elifanelekileyo.
- (7) Ngokuxhomekeke kwimiqathango yememorandam yemanyano yayo, iqela elilawulayo linelungelo lokuzinyusela ingxowa-mali yalo kusenziwa imisetyenzana yorhwebo, iminikelo okanye naziphi na ezinye iindlela ezisemthethweni.
- (8) IBhunga linakho ukuthi, ngeenjongo zalo Mthetho kaMasipala, limisele yaye libeke

IPhepha 12

umrhumo wolawulo kwiqela elilawulayo.

13. INDIMA YEGOSA ELIYINTLOKO KWEZEMALI

Ngaphezu kolunye uxanduva nezinyanzeliso zeGosa eliyiNtloko kwezeMali olumiselwe kwezinye iindawo zalo Mthetho kaMasipala, kufuneka iGosa eliyiNtloko kwezeMali -

- (a) makamisele iinkqubo ezohlukeneyo zobalo-zimali nezinye zokugcinwa kweenkcukacha eziphathelene nengeniso eyenziweyo ngemirhumo eyongeziweyo kunye nokuphuculwa nokukhuthazwa kweentlawulo zobuhlali ezizodwa kummandla;
- (b) makubek'wesweni ukuthotyelwa komthetho ofanelekileyo, kuqukwa nalo Mthetho kaMasipala kunye noMgaqo-nkqubo, ngokuthi –
 - (i) kufunyanwe yaye kuqwalaselwe iingxelo zezimali eziphicothiweyo kunye neengxelo eziphathelene nokuqhutywa kwemisebenzi echazwe kwisicwangciso somsebenzi;
 - (ii) ukuba ubani ukhetha ukwenza oko, abameli abonyulayo mabazimase yaye mabathathe inxaxheba kodwa bangavoti kwiintlanganiso zeqela elilawulayo njengoko kumiselwe kwicandelo 11(5).

IS AHLUKO 3

UKULUNGISWA KWESICWANGCISO SOMSEBENZI KUNYE NOKWANDISWA KWEXESHA LOMMANDLA WEENTLAWULO ZOBUHLALI ELIMISIWEYO

14. UKULUNGISWA KWESICWANGCISO SOMSEBENZI

- (1) Isicwangciso somsebenzi, kuqukwa nemida yendawo yommandla weentlawulo zobuhlali ezizodwa, sinakho ukulungiswa liBhunga kwisicelo esibhaliweyo seqela elilawulayo ngalo naliphi ixesha emva kokumiselwa kommandla weentlawulo zobuhlali ezizodwa.
- (2) IBhunga linakho ukuphumeza isicelo sokulungiswa okuchazwe kwicandelwana (1) apho iBhunga libona ukuba oku akunakufane kube nempembelelo kumalungelo okanye kwiimfuno zaye nawuphi umnini, ukuba iBhunga linokufuna ukuba iqela elilawulayo lipapashe isaziso sesicelo soko kulungiswa njengoko siphunyeziwe liGosa eliyiNtloko kwezeMali.

IPhepha 13

- (3) IBhunga linokuphumeza kuphela ukulungiswa okwenziwa ngokwemigaqo yecandelwana (1), neenguqu ezifunwa ngumxholo, ngokungqinelana nemiqathango yeSahluko 1, iBhunga eliyiqwalasela ukuba –
- (a) kuchaphazela ngokumandla amalungelo okanye iimfuno zaye nawuphi umntun;
- (b) kuchaphazela uhlahlo-lwabiwo-mali oluphunyeziweyo lommandla weentlawulo zobuhlali ezizodwa; okanye
- (c) kutshintsha imida yommandla weentlawulo zobuhlali ezizodwa.
- (4) IBhunga linakho ukuthi, ngokwesizathu esilungileyo, kwisicelo esibhaliweyo seqela elilawulayo, ukuvumela iqela elilawulayo ukuba lingayithobeli imiqathango, okanye likhuthaze nakuphi ukungathotyelwa kwayo nayiphi imiqathango, yeSahluko soku-1.

15. UKWANDISWA KWEXESHA LOMMANDLA WEENTLAWULO ZOBUHLALI

Iqela elilawulayo kufuneka, ukuba likhetha ukulandisa ixesha loMmandla weentlawulo zobuhlali elinye ixesha elongeziweyo, ngomhla okanye phambi kowoku-1 Septemba kunyaka ongaphambi kokuba isicwangciso somsebenzi sibe kwixesha lokuphelelwa, lingenise isicelo kwisiXeko sokuphunyezwa kokwandiswa kwexesha lommandla weentlawulo zobuhlali ezizodwa, ukuba –

- (a) ukwandiswa kwexesha lommandla weentlawulo zobuhlali kunokuphunyezwa kuphela iBhunga ngokungqinelana nemiqathango yeSahluko soku-1, neenguqu ezifuneka kumxholo, yaye iBhunga linakho, ngesizathu esilungileyo, kwisicelo esibhaliweyo seqela elilawulayo, ukukhulula iqela elilawulayo lingayithobeli imiqathango, okanye likhuthaze nakuphi ukungathotyelwa kwayo nayiphi imiqathango;
- (b) imiqathango yecandelo le-14 iya kusebenza kuko nakuphi ukulungiswa kwesicwangciso somsebenzi okwandisiweyo ngokwemigaqo yeli candelo.

ISAHLUKO 4**UKUPHELISWA KWEMIMANDLA YEENTLAWULO ZOBUHLALI****16. UKUPHELISWA**

- (1) IBhunga linakho ukuphelisa ummandla weentlawulo zobuhlali ezizodwa –
- (a) xa kwenziwe isicelo esibhaliweyo esityikitywe sisininzi sabanini abakwimida

IPhepha 14

yommandla weentlawulo zobuhlali ezizodwa abanoxanduva lokuhlawula irhafu eyongeziweyo; okanye

- (b) emva kokubonisana kuqala kweGosa eliyiNtloko kwezeMali neqela elilawulayo okanye noluntu, ngaso nasiphi injongo elungileyo, nalapho emva koko liya kumisela ukuba iqela elilawulayo ukuba livuswe kwakhona.
- (2) Emva kokuvuswa kweqela elilawulayo, lilonke ixabiso elipheleleyo leqela elialwulayo, kuqukwa nempahla yalo ephathekayo esele emva kokwaneliswa kwawo onke amatyala noxanduva lwalo, ziya kuthengiswa ngokungqinelana nemiqathango efanelekileyo yoMthetho olawula iiNkampani kunye nememorandam yomanyano yeqela elialwulayo.

IS AHLUKO 5**IINTLOBO NGEENTLOBO ZE ZIBONELELO****17. IZIBONELELO ZELI THUTYANA LOTSHINTSHO**

- (1) Nawuphi uMmandla weeNtlawulo zobuHlali eziZodwa okanye iSithili soPhuculo lwesiXeko omiselweyo okanye osekiweyo, okanye othatyathwa njengomiselweyo okanye osekiweyo ngokwemigaqo yoMthetho kaMasipala ochazwe kwicandelo 18 uya kuthatyathwa njengomiselweyo okanye osekiweyo ngokwemigaqo yalo Mthetho kaMasipala.

(2) Nasiphi –

- (a) isicelo esiqulunqwe ngumfaki-sicelo, kuqukwa nesicwangciso somsebenzi esenziwe ngulo mfaki-sicelo;
- (b) isibhengezo-ntengiso okanye intlanganiso yoluntu ephathelene neso sicelo;
- (c) isicelo esingeniswe kwiBhunga;
- (d) esiphunyezwe liBhunga ngaso nasiphi isicelo,

esenziweyo, okanye esinikezelwe ngaphambi komhla wokubhengezwa kwalo Mthetho kaMasipala, siya kulawulwa ngulo Mthetho kaMasipala, ukuba nasiphi na isicwangciso somsebenzi esikhoyo ngomhla wokuqaliswa kokumiselwa kwalo Mthetho kaMasipala, nangona kukho inkcaso kwimiqathango yecandelo le-6, siya kunqunyanyiswa ngomhla wokupheliswa kwesicwangciso somsebenzi esifanelekileyo okanye ngomhla wama-30 Juni 2012, nokuba yiyiphi eyenzeke kuqala.

IPhepha 15

18. UKURHOXISWA KWEMITHETHO KAMASIPALA

UMthetho kaMasipala wesiXeko saseKapa olawula iMimandla yeeNtlawulo zobuHlali eziZodwa, owabhengezwa kwiPhepha-ndaba likaRhulumente elinguNomb. 6651 wama-21 Agasti 2009, ngenxa yoko uya rhexiswa.

19. ISIHLOKO ESIFUTSHANE NOKUSUNGULWA KOKUMISELWA

(1) Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala wesiXeko saseKapa olawula iMimandla yeeNtlawulo zobuHlali eziZodwa, 2012.

(2) Akukho mmandla mtsha weentlawulo zobuhlali ezizodwa omiselwe ngokwemigaqo yalo Mthetho kaMasipala uvumelekileyo ukumisela esaso isicwangciso sokumisela phambi komhla woku-1 Julayi 2012.